



**NEW MEXICO**  
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***Revised Draft: November 5, 2020***

**GROUND WATER QUALITY BUREAU**  
**DISCHARGE PERMIT**  
**Issued under 20.6.2 NMAC**

**Facility Name:** Envirotech, Inc. - Landfarm #3  
**Discharge Permit Number:** DP-955  
**Facility Location:** #43 Road 7175  
approximately 14 miles south of Bloomfield, NM

**County:** San Juan

**Permittee:** Morris Young, President  
**Mailing Address:** Envirotech, Inc.  
5796 US Highway 64  
Farmington, NM 87401

**Facility Contact:** Greg Crabtree, Environmental Manager  
**Telephone Number/Email:** (505) 632-0615/gcrabtree@envirotech-inc.com

**Permitting Action:** Renewal and Modification

**Permit Issuance Date:** DATE  
**Permit Expiration Date:** DATE

**NMED Permit Contact:** Gerald Knutson  
**Telephone Number/Email:** (505) 660-7189/gerald.knutson@state.nm.us

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**MICHELLE HUNTER**  
Chief, Ground Water Quality Bureau  
New Mexico Environment Department

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Date

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## I. INTRODUCTION

The New Mexico Environment Department (NMED) issues this groundwater discharge permit renewal and modification (Discharge Permit or DP-955) to Envirotech, Inc. (Permittee) pursuant to the New Mexico Water Quality Act (WQA), NMSA 1978 §§74-6-1 through 74-6-17, and the New Mexico Water Quality Control Commission (WQCC) Ground and Surface Water Protection Regulations, 20.6.2 NMAC.

NMED's purpose in issuing this Discharge Permit, and in imposing the requirements and conditions specified herein, is to control the discharge of water contaminants to Envirotech, Inc.- Landfarm #3 (Facility) in order to protect groundwater and those segments of surface water gaining from groundwater inflow for present and potential future use as domestic and agricultural water supply and other uses, and to protect public health. It is NMED's determination in issuing this Discharge Permit that the Permittee has met the requirements of Subsection C of 20.6.2.3109 NMAC. The Permittee is responsible for complying with the terms and conditions of this Discharge Permit pursuant to Section 20.6.2.3104 NMAC; failure to do so may result in enforcement action by NMED (20.6.2.1220 NMAC).

Described below are the activities that produce the discharge, the location of the discharge, and the quantity, quality, and flow characteristics.

The Permittee receives up to 999 cubic yards (cy) per day of non-hazardous hydrocarbon-contaminated soil and tank bottoms and up to 9,000 gallons per day (gpd) of non-hazardous hydrocarbon-contaminated water, on an annual average, that discharges to a 79.5-acre facility for remediation and surface disposal.

The Discharge Permit modification consists of an allowance for the disposal of non-hazardous hydrocarbon-contaminated tanks bottoms.

The discharge may contain water contaminants or toxic pollutants elevated above the standards of Section 20.6.2.3103 NMAC and is not subject to the exemption at Subsection 20.6.2.3105.A NMAC.

The Facility is located at #43 Road 7175, approximately 14 miles south of Bloomfield in Section 6, Township 26N, Range 10W, San Juan County. A discharge at the Facility is most likely to affect groundwater at a depth of greater than 485 feet and having a total dissolved solids (TDS) concentration of approximately 650 milligrams per liter.

NMED issued the original Discharge Permit to the Permittee on February 11, 1994 and subsequently modified the Permit on December 20, 1995, renewed the Permit on December 15, 2000, and last renewed the Permit on January 23, 2015. The application (i.e., discharge plan) consists of the materials submitted by the Permittee dated August 26, 2019, and materials

contained in the administrative record prior to issuance of this Discharge Permit. The Permittee shall manage the discharge in accordance with all conditions and requirements of this Discharge Permit.

NMED reserves the right to require a Discharge Permit Modification in the event NMED determines that the Permittee is or may be violating, or is likely to violate in the future, the requirements of 20.6.2 NMAC or the standards of Section 20.6.2.3103 NMAC. NMED reserves this right pursuant to Section 20.6.2.3109 NMAC. An NMED requirement to modify the Discharge Permit may result from a determination by the department that structural controls and/or management practices approved under this Discharge Permit need to be more stringent to protect groundwater quality. NMED reserves the right to require the Permittee implement abatement of water pollution and remediate groundwater quality.

NMED's issuance of this Discharge Permit does not relieve the Permittee of the responsibility to comply with the WQA, WQCC Regulations, and any other applicable federal, state and/or local laws and regulations, such as zoning requirements and nuisance ordinances.

This Discharge Permit may use the following acronyms and abbreviations.

Abbreviation	Explanation	Abbreviation	Explanation
CFR	Code of Federal Regulations	NMED	New Mexico Environment Department
EPA	United States Environmental Protection Agency	NMSA	New Mexico Statutes Annotated
gpd	gallons per day	QA/QC	Quality Assurance/Quality Control
mg/L	milligrams per liter	WQA	New Mexico Water Quality Act
mL	milliliters	WQCC	Water Quality Control Commission
NMAC	New Mexico Administrative Code	WWTF	Wastewater Treatment Facility

## II. FINDINGS

In issuing this Discharge Permit, NMED finds the following.

1. The Permittee is discharging effluent or leachate to the Facility so that such effluent or leachate may move into groundwater of the State of New Mexico that has an existing concentration of 10,000 mg/L or less of TDS, within the meaning of Subsection A of 20.6.2.3101 NMAC, without exceeding standards of 20.6.2.3103 NMAC for any water contaminant.

2. The Permittee is allowed to discharge effluent or leachate from the Facility directly or indirectly into groundwater pursuant to this Discharge Permit and Section 20.6.2.3104 NMAC.
3. The discharge from the Facility is not subject to any of the exemptions of Section 20.6.2.3105 NMAC.

### III. AUTHORIZATION TO DISCHARGE

The Permittee is responsible for ensuring that discharges authorized by this Discharge Permit are consistent with the terms and conditions herein pursuant to 20.6.2.3104 NMAC.

This Discharge Permit authorizes the Permittee to receive up to 364,635 cy per year or 999 cy per day, on an annual average, of non-hazardous hydrocarbon-contaminated soil and non-hazardous, non-oilfield hydrocarbon-contaminated tank bottoms to 79.5 acres consisting of two hundred and fifty 10,000-square foot remediation cells located at the Facility. This Discharge Permit also authorizes the Permittee to receive up to 3,285,000 gallons per year or 9,000 gpd, on an annual average, of hydrocarbon contaminated wastewater to enhance bioremediation of hydrocarbon-contaminated soils and tank bottoms by distributing the wastewater over the remediation cells, and to store up to 22,500 gallons of hydrocarbon contaminated wastewater for later use or disposal by evaporation. The soils, tank bottoms, and wastewater are contaminated with gasoline and diesel fuel, underground storage tank (UST) exempted waste, used oil, waste oil, hydrocarbon solvents, and petroleum distillates from leaking petroleum storage tanks and/or spills/leaks/discharges of similar petroleum hydrocarbons from a variety of commercial and industrial sources.

The Discharge Permit prohibits discharge of waste types other than the waste types listed above at this Facility.

[20.6.2.3104 NMAC, Subsection C of 20.6.2.3106 NMAC, Subsection D of 20.6.2.3109 NMAC]

### IV. CONDITIONS

NMED issues this Discharge Permit for the discharge of water contaminants subject to the following conditions.

#### A. OPERATIONAL PLAN

#	Terms and Conditions
1.	The Permittee shall implement the following operational plan to ensure compliance with Title 20, Chapter 6, Parts 2 and 4 NMAC.

#	Terms and Conditions
	[Subsection C of 20.6.2.3109 NMAC]
2.	The Permittee shall operate in a manner that does not violate standards and requirements of Sections 20.6.2.3101 and 20.6.2.3103 NMAC.  [20.6.2.3101 NMAC, 20.6.2.3103 NMAC, Subsection C of 20.6.2.3109 NMAC]

### ***Operating Conditions***

#	Terms and Conditions
3.	The Permittee shall maintain fences around the entire disposal Facility to prevent unrestricted access. The fences shall consist of a minimum of a three-strand barbed wire fence and locking gate. The Permittee shall maintain the fences to serve the stated purpose throughout the term of this Discharge Permit.  [Subsections B and C of 20.6.2.3109 NMAC, NMSA 1978, § 74-6-5.D]
4.	The Permittee shall maintain the following signs at the following locations: <ul style="list-style-type: none"> <li>• Signs posted at the Facility entrance and every 500 feet along the Facility boundary that state: "Notice: Waste Disposal Area - KEEP OUT" and "Aviso: Área de Disposición - NO ENTRAR".</li> <li>• A sign posted at the entrance gate with the following information:                             <ul style="list-style-type: none"> <li>○ the name of the Facility,</li> <li>○ the name of a Facility contact person,</li> <li>○ the office phone number of the contact person,</li> <li>○ the emergency contact phone number for the Facility, and</li> <li>○ New Mexico Environment Department, Discharge Permit #1355 – dial 505-827-2900.</li> </ul> </li> <li>• A sign on each tank identifying its contents. Signs on tanks containing contaminated water shall indicated in English and Spanish that the water is not potable.</li> <li>• A sign to identify each row of cells by letter.</li> </ul> <p>These signs shall be weatherproof. The Permittee shall maintain signs to serve their purpose for the term of this Discharge Permit.</p> <p>[Subsections B and C of 20.6.2.3109 NMAC, NMSA 1978, § 74-6-5.D]</p>
5.	To prevent run-on and run-off from a storm event, the Permittee shall maintain earthen berms surrounding the perimeter of the Facility that are a minimum of 24-inches above

#	Terms and Conditions
	<p>natural grade. The Permittee shall inspect the berms on a regular basis and after any major rainfall event and repair the berms as necessary. In place of a berm across the Facility entrance, the Permittee shall construct and maintain shallow (minimum depth of six inches) stormwater diversion trenches parallel to and on each side of the Facility entrance gate. The Permittee shall maintain all berms and trenches until termination of the permit and the closure conditions have been met.</p> <p>The Permittee shall keep a log of the berm inspections that includes the date of inspection, any findings, and the name of the person performing the inspection. The Permittee shall maintain these logs at the Envirotech Inc. office in Farmington and make the logs available for NMED review upon request.</p> <p>[Subsection A of 20.6.2.3107 NMAC, Subsection C of 20.6.2.3109 NMAC]</p>
6.	<p>The Permittee shall inspect the Facility monthly and collect any residual solid waste (trash) on the Facility site. The Permittee shall dispose of the collected materials in a manner consistent with all local, state, and federal regulations.</p> <p>The Permittee shall maintain a log of inspection findings at the Envirotech Inc. office in Farmington and make the logs available to a NMED representative upon request.</p> <p>[20.6.2.3109 NMAC]</p>
7.	<p>The Permittee shall not discharge hydrocarbon-contaminated wastewater to any of the surface disposal cells during periods of precipitation or when surface soils are frozen or saturated.</p> <p>[Subsection A of 20.6.2.3107 NMAC, Subsections B and C of 20.6.2.3109 NMAC]</p>
8.	<p>The Permittee shall not accept hazardous waste at the Facility.</p> <p>The Permittee shall reject any waste reasonably suspected of containing hazardous waste, due to its origin, characteristic, or other known factors, or analyze the waste using EPA's sample preparation Method 1311, the Toxicity Characteristics Leaching Procedure (TCLP), in accordance with 40 CFR §261.24. The Permittee shall reject any waste determined to be a hazardous waste and return the waste to the generator.</p> <p>The Permittee is authorized to accept media (soil and groundwater) resulting from the cleanup of USTs that are excluded from the definition of hazardous waste under 40 CFR 260.4(b)(10).</p>

#	Terms and Conditions
	<p>The Permittee shall document all hazardous waste determinations and shall permanently retain these documents at the Envirotech, Inc. Office and shall make them available to a NMED representative upon request.</p> <p>[20.6.2.10 NMAC]</p>
9.	<p>The Permittee shall not accept hydrocarbon free product for placement at the Facility. The Permittee shall analyze any soils and tank bottoms suspected of containing a measurable amount of free product, i.e., a hydrocarbon-based liquid not dissolved in water, using EPA Method 9095, the Paint Filter Liquids Test. The Permittee shall reject any waste that does not pass the test and return the waste to the generator.</p> <p>[NMSA 1978, § 74-6-5.D, Subsections B and C of 20.6.2.3109 NMAC]</p>
10.	<p>The Permittee shall not accept wastes generated from oil and natural gas exploration or production activities. Such wastes are regulated under the authority of the Oil Conservation Division as described by the <i>WQCC Delegation of Responsibility to the Environmental Improvement Division and the Oil Conservation Division</i>.</p> <p>[NMSA 1978, § 74-6-4.F]</p>
11.	<p>The Permittee shall ensure each load of waste received and disposed of at the Facility is accompanied with a manifest. The Permittee shall ensure each manifest includes the following information:</p> <ul style="list-style-type: none"><li>• name of the hauling company;</li><li>• name of the driver;</li><li>• date of waste shipment receipt;</li><li>• name and address of the waste origin;</li><li>• media type (differentiate between soil, water, or tank bottoms);</li><li>• description of contamination (e.g., diesel, gasoline, used oil, solvents)</li><li>• volume of waste shipment (cubic yards or gallons);</li><li>• confirmation of inspection for acceptable waste type;</li><li>• signature of person conducting the inspection; and</li><li>• cell identification and location within the cell where the waste is discharged.</li></ul> <p>The Permittee shall maintain the manifests at the Envirotech, Inc. office in Farmington. The Permittee shall make the manifests available for inspection by NMED upon request. The Permittee shall submit a summary listing the information from each manifest for wastes received during the reporting period to NMED in the semi-annual monitoring reports.</p>



#	Terms and Conditions				
	[Subsection A of 20.6.2.3107 NMAC, NMSA 1978, § 74-6-5.D]				
12.	<p>Within 72 hours of receipt, the Permittee shall land apply the hydrocarbon-contaminated soils and tank bottoms in lifts of eight inches or less (approximately 1,000 cubic yards per acre) and incorporate the contaminated soil by disking. The Permittee shall disk the contaminated soils and tank bottoms lifts at least once every 14 days until analytical results indicate that the soil is remediated to the standards required by this Discharge Permit. The Permittee shall not add additional soil and tank bottoms to a remediation cell until complete remediation of the existing layer is confirmed by laboratory analysis.</p> <p>[NMSA 1978, § 74-6-5.D, Subsections B and C of 20.6.2.3109 NMAC]</p>				
13.	<p>The Permittee shall properly manage and remediate hydrocarbon-contaminated absorbent material and debris from hydrocarbon-contaminated spill sites in designated cells located at the Facility. The Permittee shall also maintain fences around the designated cells to prevent wind dispersion of the absorbent material and debris. The Permittee shall remove, transport, and dispose of remediated absorbent material and debris in accordance with all local, state, and federal regulations.</p> <p>The Permittee shall maintain a record of all absorbent material and debris removed from the Facility. The Permittee shall retain these records at the Envirotech Inc. office in Farmington and shall make the records available to a NMED representative upon request.</p> <p>[20.6.2.3109 NMAC]</p>				
14.	<p>The Permittee is authorized to apply water or hydrocarbon contaminated wastewater to moisten soils in the remediation cells in order to enhance remediation and reduce dust. The Permittee shall not apply water or hydrocarbon contaminated wastewater to saturated soil, or in a manner which causes ponding in the remediation cells. The Permittee shall not apply hydrocarbon contaminated wastewater in areas outside of the remediation cells.</p> <p>[NMSA 1978, § 74-6-5.D, Subsections B and C of 20.6.2.3109 NMAC]</p>				
15.	<p>The Permittee shall remediate hydrocarbon-contaminated soil to the following standards, which are identified in <i>NMED's Risk Assessment Guidance for Investigations and Remediation (February 2019)</i> as soil screening levels for residential exposure:</p> <table border="1"> <thead> <tr> <th>Chemical Constituent</th><th>Remediation Standard (mg/kg)</th></tr> </thead> <tbody> <tr> <td>Total Petroleum Hydrocarbons (TPH)</td><td>1000</td></tr> </tbody> </table>	Chemical Constituent	Remediation Standard (mg/kg)	Total Petroleum Hydrocarbons (TPH)	1000
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	<table border="1"> <tr> <td colspan="2">BTEX</td></tr> <tr> <td>Benzene</td><td>17.8</td></tr> <tr> <td>Toluene</td><td>5,228</td></tr> <tr> <td>Ethylbenzene</td><td>75.1</td></tr> <tr> <td>Xylenes</td><td>871</td></tr> <tr> <td colspan="2">Polycyclic Aromatic Hydrocarbons (PAHs)</td></tr> <tr> <td>Naphthalene</td><td>1,160</td></tr> <tr> <td>1-methyl naphthalene</td><td>172</td></tr> <tr> <td>2-methyl naphthalene</td><td>232</td></tr> <tr> <td>Benzo(a)pyrene</td><td>1.12</td></tr> <tr> <td>Dibenzo(a,h)anthracene</td><td>0.15</td></tr> <tr> <td>Benzo(a)anthracene</td><td>1.53</td></tr> <tr> <td>Benzo(b)fluoranthene</td><td>1.53</td></tr> <tr> <td>Benzo(k)fluoranthene</td><td>15.3</td></tr> <tr> <td>Methyl tertiary-butyl ether (MTBE)</td><td>975</td></tr> </table> <p>[NMSA 1978, § 74-6-5.D, Subsections B and C of 20.6.2.3109 NMAC]</p>	BTEX		Benzene	17.8	Toluene	5,228	Ethylbenzene	75.1	Xylenes	871	Polycyclic Aromatic Hydrocarbons (PAHs)		Naphthalene	1,160	1-methyl naphthalene	172	2-methyl naphthalene	232	Benzo(a)pyrene	1.12	Dibenzo(a,h)anthracene	0.15	Benzo(a)anthracene	1.53	Benzo(b)fluoranthene	1.53	Benzo(k)fluoranthene	15.3	Methyl tertiary-butyl ether (MTBE)	975
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16.	<p>The Permittee shall remediate accumulated solids removed from the hydrocarbon-contaminated wastewater storage tanks located at the Facility and in accordance with the requirements of this Discharge Permit or otherwise disposed of in accordance with all local, state, and federal regulations.</p> <p>[NMSA 1978, § 74-6-5.D, Subsections B and C of 20.6.2.3109 NMAC]</p>																														
17.	<p>The Permittee shall not add amendments to the contaminated soil, such as proprietary microorganisms or fertilizer, without prior written approval by NMED.</p> <p>[NMSA 1978, § 74-6-5.D, Subsections B and C of 20.6.2.3109 NMAC]</p>																														

## B. MONITORING AND REPORTING

#	Terms and Conditions
18.	<p>The Permittee shall conduct the following monitoring, reporting, and other requirements listed below in accordance with the requirements of this Discharge Permit.</p> <p>[Subsection A of 20.6.2.3107 NMAC, Subsection C of 20.6.2.3109 NMAC]</p>

#	Terms and Conditions
19.	<p>METHODOLOGY - Unless otherwise specified by this Discharge Permit, or approved in writing by NMED, the Permittee shall use sampling and analytical techniques that conform with the references listed in Subsection B of 20.6.2.3107 NMAC.</p> <p>[Subsection B of 20.6.2.3107 NMAC]</p>
20.	<p>Semi-annual monitoring: The Permittee shall perform monitoring and other Permit required actions during the following periods and shall submit semi-annual reports to NMED by the following due dates:</p> <ul style="list-style-type: none"> <li>January 1<sup>st</sup> through June 30<sup>th</sup> – <b>due by August 1<sup>st</sup>; and</b></li> <li>July 1<sup>st</sup> through December 31<sup>st</sup> – <b>due by February 1<sup>st</sup>.</b></li> </ul> <p>[Subsection A of 20.6.2.3107 NMAC]</p>

**Facility Monitoring Conditions**

#	Terms and Conditions
21.	<p>The Permittee shall maintain a monthly log detailing wastes discharged to the Facility. The Permittee shall ensure the log includes the following information:</p> <ul style="list-style-type: none"> <li>date of receipt;</li> <li>origin of waste;</li> <li>media (differentiate between soil, water, or tank bottoms);</li> <li>description of contamination (e.g., diesel, gasoline, used oil, solvents);</li> <li>volume of waste (cubic yards or gallons); and</li> <li>cell identification and location within the cell where the waste is discharged.</li> </ul> <p>The Permittee shall submit copies of the monthly logs to NMED in the semi-annual monitoring reports.</p> <p>[20.6.2.3107 NMAC]</p>
22.	<p>Prior to adding additional eight-inch lifts, the Permittee shall demonstrate that soil is remediated to the standards listed in this Discharge Permit. To make this demonstration, the Permittee shall collect a composite soil sample for every two acres of cell area consisting of four soil core samples at a depth of 6 to 12 inches and analyze the composite sample for the following constituents using the identified methods or equivalent ASTM methodology approved by NMED:</p> <ul style="list-style-type: none"> <li>TPH using EPA SW-846 method 8015;</li> <li>BTEX using EPA SW-846 methods 8021 or 8260;</li> <li>PAHs using EPA SW-846 methods 8270 or 8310; and</li> </ul>

#	Terms and Conditions
	<ul style="list-style-type: none"> <li>• MTBE using EPA SW-846 method 8260.</li> </ul> <p>The Permittee shall submit a description of the remediation demonstration, a copy of the laboratory analytical results that includes the laboratory QA/QC summary report, and a map outlining the sampling locations to NMED in the semi-annual monitoring reports.</p> <p>[NMSA 1978, § 74-6-5.D, Subsection A 20.6.2.3107 NMAC, Subsection H of 20.6.2.3109]</p>

### C. CONTINGENCY PLAN

#	Terms and Conditions
23.	<p>In the event that groundwater exceeds a groundwater protection standard identified in Section 20.6.2.3103 NMAC as a result of this discharge during the term of this Discharge Permit, upon closure of the Facility, or during the implementation of post-closure requirements, the Permittee shall submit to NMED a Corrective Action Plan (CAP) that proposes, at a minimum, contaminant source control measures and an implementation schedule. The Permittee shall implement the CAP as approved by NMED.</p> <p>The NMED may require the Permittee to abate water pollution consistent with the requirements and provisions of Section 20.6.2.4101, Section 20.6.2.4103, Subsections C and E of 20.6.2.4106, Section 20.6.2.4107, Section 20.6.2.4108, and Section 20.6.2.4112 NMAC.</p> <p>[Subsection A of 20.6.2.3107 NMAC, Subsection E of 20.6.2.3109 NMAC]</p>
24.	<p>If the soil remediation standards set forth in this Discharge Permit cannot be met within five years of ceasing to add contaminated soil to a cell, the Permittee shall submit a Corrective Action Plan (CAP) to NMED within 45 days of receipt of the fifth year's analytical results.</p> <p>The Permittee shall implement the CAP as approved by NMED.</p> <p>[NMSA 1978, § 74-6-5.D, Subsection B and C of 20.6.2.3109 NMAC, Subsection A of 20.6.2.3107 NMAC]</p>
25.	<p>In the event that a release occurs that is not authorized under this Discharge Permit (commonly known as a "spill"), the Permittee shall take measures to mitigate damage from the unauthorized discharge and initiate the notifications and corrective actions required in Section 20.6.2.1203 NMAC and summarized below.</p>

#	Terms and Conditions
	<p>Within <u>24 hours</u> following discovery of the unauthorized discharge, the Permittee shall verbally notify NMED and provide the following information.</p> <ol style="list-style-type: none"><li>The name, address, and telephone number of the person or persons in charge of the Facility, as well as of the owner and/or operator of the Facility.</li><li>The name and address of the Facility.</li><li>The date, time, location, and duration of the unauthorized discharge.</li><li>The source and cause of unauthorized discharge.</li><li>A description of the unauthorized discharge, including its estimated chemical composition.</li><li>The estimated volume of the unauthorized discharge.</li><li>Any actions taken to mitigate immediate damage from the unauthorized discharge.</li></ol> <p>Within <u>one week</u> following discovery of the unauthorized discharge, the Permittee shall submit written notification to NMED providing the information listed above and any pertinent updates.</p> <p>Within <u>15 days</u> following discovery of the unauthorized discharge, the Permittee shall submit a Corrective Action Plan (CAP) to NMED describing any corrective actions previously taken and/or to be taken relative to the unauthorized discharge. The CAP shall include the following information.</p> <ol style="list-style-type: none"><li>A description of proposed actions to mitigate damage from the unauthorized discharge.</li><li>A description of proposed actions to prevent future unauthorized discharges of this nature.</li><li>A schedule for completion of proposed actions.</li></ol> <p>The Permittee shall implement the CAP as approved by NMED.</p> <p>In the event that the unauthorized discharge causes or may with reasonable probability cause water pollution in excess of the standards and requirements of Section 20.6.2.4103 NMAC, and the water pollution will not be abated within 180 days after notice is required to be given pursuant to Paragraph (1) of Subsection A of 20.6.2.1203 NMAC, NMED may require the Permittee to abate water pollution pursuant to Sections 20.6.2.4000 through 20.6.2.4115 NMAC.</p> <p>The Permittee shall not construe anything in this condition as relieving them of the obligation to comply with all requirements of Section 20.6.2.1203 NMAC.</p> <p>[20.6.2.1203 NMAC]</p>

#	Terms and Conditions
26.	<p>In the event that NMED or the Permittee identifies any failures of the discharge plan, i.e., the application, or this Discharge Permit not specifically noted herein, NMED may require the Permittee to submit a Corrective Action Plan and a schedule for completion of corrective actions to address the failure(s). Additionally, NMED may require a discharge permit modification to achieve compliance with 20.6.2 NMAC.</p> <p>[Subsection A of 20.6.2.3107 NMAC, Subsection E of 20.6.2.3109 NMAC]</p>

#### D. CLOSURE PLAN

##### *Permanent Facility Closure Conditions*

#	Terms and Conditions																		
27.	<p>In the event that the Facility permanently closes, the Permittee shall perform the following closure measures:</p> <ol style="list-style-type: none"> <li>The Permittee shall notify NMED that hydrocarbon contaminated soil and water, and tank bottoms will no longer be accepted.</li> <li>The Permittee shall submit a schedule for closure actions.</li> <li>The Permittee shall empty and remove the storage tanks from the facility. The Permittee shall evaporate hydrocarbon-contaminated water from the tanks or distribute the water on the disposal cells as authorized by this Discharge Permit. The Permittee shall remove solids from the tanks and remediate the tank bottoms at the Facility in accordance with the requirements of this Discharge Permit, or otherwise dispose of the tank bottoms in accordance with all local, state, and federal regulations.</li> <li>The Permittee shall demonstrate that all soils in the remediation cells and berms do not exceed the residential soil screening levels in <i>NMED's Risk Assessment Guidance for Investigations and Remediation</i> (February 2019) for the following metals:</li> </ol> <table border="1" data-bbox="440 1480 1271 1843"> <thead> <tr> <th>Inorganic Constituents</th><th>Levels (mg/kg)</th></tr> </thead> <tbody> <tr> <td>Arsenic</td><td>7.1</td></tr> <tr> <td>Barium</td><td>15,558</td></tr> <tr> <td>Cadmium</td><td>85,881</td></tr> <tr> <td>Chromium III</td><td>117,321</td></tr> <tr> <td>Lead (tetraethyl-)</td><td>0.006</td></tr> <tr> <td>Mercury (elemental)</td><td>23.8</td></tr> <tr> <td>Selenium</td><td>391</td></tr> <tr> <td>Silver</td><td>391</td></tr> </tbody> </table>	Inorganic Constituents	Levels (mg/kg)	Arsenic	7.1	Barium	15,558	Cadmium	85,881	Chromium III	117,321	Lead (tetraethyl-)	0.006	Mercury (elemental)	23.8	Selenium	391	Silver	391
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	<p>The Permittee shall use the sampling protocol described in Condition #22 for the remediation cells. The Permittee shall submit a copy of the laboratory analytical results and a map outlining the sampling locations to NMED. If the soil exceeds an inorganic constituent screening level, the Permittee shall propose a corrective action for NMED's approval.</p> <p>e) The Permittee shall continue operating and monitoring until all soils are remediated to the standards required by this Discharge Permit.</p> <p>f) Upon determination by NMED that remediation of all soils is complete, the Permittee shall backfill the cells with clean fill (as necessary) and re-grade to allow for positive stormwater drainage.</p> <p>g) The Permittee shall re-vegetate the cells by establishing a vegetation cover equal to 70% of the native perennial vegetative cover consisting of at least three native plant species including at least one grass, but not including noxious weeds. The Permittee shall maintain the vegetative cover through two consecutive growing seasons.</p> <p>When the Permittee has met all closure requirements and verified appropriate actions with date stamped photographic evidence or an associated NMED inspection, the Permittee shall submit a written request to NMED which includes date-stamped photographic evidence for termination of the Discharge Permit.</p> <p>[20.6.2.3109 NMAC, 20.6.2.3107. NMAC]</p>

#### E. GENERAL TERMS AND CONDITIONS

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28.	<p>RECORD KEEPING - The Permittee shall maintain a written record of the following:</p> <ul style="list-style-type: none"> <li>• Information and data used to complete the application for this Discharge Permit;</li> <li>• Information, data, and documents demonstrating completion of closure activities;</li> <li>• Any releases (commonly known as "spills") not authorized under this Discharge Permit and reports submitted pursuant to 20.6.2.1203 NMAC;</li> <li>• The operation, maintenance, and repair of all facilities/equipment used to store or dispose of wastewater;</li> <li>• Copies of logs, inspection reports, manifests, and monitoring reports completed and/or submitted to NMED pursuant to this Discharge Permit;</li> <li>• The volume of wastewater or other wastes discharged pursuant to this Discharge Permit;</li> <li>• Data and information related to field measurements, sampling, and analysis conducted pursuant to this Discharge Permit, including the following: <ul style="list-style-type: none"> <li>○ the dates, locations, and times of sampling or field measurements;</li> </ul> </li> </ul>

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	<ul style="list-style-type: none"> <li>○ the name and job title of the individuals who performed each sample collection or field measurement;</li> <li>○ the sample analysis date of each sample;</li> <li>○ the name and address of the laboratory, and the name of the signatory authority for the laboratory analysis;</li> <li>○ the analytical technique or method used to analyze each sample or collect each field measurement;</li> <li>○ the results of each analysis or field measurement, including raw data;</li> <li>○ the results of any split, spiked, duplicate, or repeat sample; and</li> <li>○ a copy of the laboratory analysis chain-of-custody as well as a description of the quality assurance and quality control procedures used.</li> </ul> <p>The Permittee shall maintain the written record at a location accessible to NMED during a Facility inspection for the lifetime of the Discharge Permit. The Permittee shall make the record available to the department upon request.</p> <p>[Subsections A and D of 20.6.2.3107 NMAC]</p>
29.	<p><b>SUBMITTALS</b> - The Permittee shall submit both a paper copy and an electronic copy of all notification and reporting documents required by this Discharge Permit, e.g., monitoring reports. The paper and electronic documents shall be submitted to the NMED Permit Contact identified on the Permit cover page.</p> <p>[Subsection A of 20.6.2.3107 NMAC]</p>
30.	<p><b>INSPECTION and ENTRY</b> - The Permittee shall allow NMED to inspect the Facility and its operations that are subject to this Discharge Permit and the WQCC regulations. NMED may, upon presentation of proper credentials, enter at reasonable times upon or through any premises in which a water contaminant source is located or in which any maintained records required by this Discharge Permit, the regulations of the federal government, or the WQCC are located.</p> <p>The Permittee shall allow NMED to have access to and reproduce for their use any copy of the records, and to perform assessments, sampling or monitoring during an inspection for the purpose of evaluating compliance with this Discharge Permit and the WQCC regulations.</p> <p>No person shall construe anything in this Discharge Permit as limiting in any way the inspection and entry authority of NMED under the WQA, the WQCC Regulations, or any other local, state or federal regulations.</p>



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	[Subsection D of 20.6.2.3107 NMAC, NMSA 1978, §§ 74-6-9.B and 74-6-9.E]
31.	<p>DUTY to PROVIDE INFORMATION - The Permittee shall, upon NMED's request, allow for NMED's inspection/duplication of records required by this Discharge Permit and/or furnish to NMED copies of such records.</p> <p>[Subsection D of 20.6.2.3107 NMAC]</p>
32.	<p>MODIFICATIONS and/or AMENDMENTS - In the event the Permittee proposes a change to the Facility or the Facility's discharge that would result in a change in the volume discharged; the location of the discharge; or in the amount or character of water contaminants received, treated, or discharged by the Facility, the Permittee shall notify NMED prior to implementing such changes. The Permittee shall obtain NMED's approval (which may require modification of this Discharge Permit) prior to implementing such changes.</p> <p>[Subsection C of 20.6.2.3107 NMAC, Subsections E and G of 20.6.2.3109 NMAC]</p>
33.	<p>CIVIL PENALTIES - Any violation of the requirements and conditions of this Discharge Permit, including any failure to allow NMED staff to enter and inspect records or facilities, or any refusal or failure to provide NMED with records or information, may subject the Permittee to a civil enforcement action. Pursuant to WQA 74-6-10(A) and (B), such action may include a compliance order requiring compliance immediately or in a specified time, assessing a civil penalty, modifying or terminating the Discharge Permit, or any combination of the foregoing; or an action in district court seeking injunctive relief, civil penalties, or both. Pursuant to WQA 74-6-10(C) and 74-6-10.1, civil penalties of up to \$15,000 per day of noncompliance may be assessed for each violation of the WQA 74-6-5, the WQCC Regulations, or this Discharge Permit, and civil penalties of up to \$10,000 per day of noncompliance may be assessed for each violation of any other provision of the WQA, or any regulation, standard, or order adopted pursuant to such other provision. In any action to enforce this Discharge Permit, the Permittee waives any objection to the admissibility as evidence of any data generated pursuant to this Discharge Permit.</p> <p>[20.6.2.1220 NMAC, NMSA 1978, §§ 74-6-10 and 74-6-10.1]</p>
34.	<p>CRIMINAL PENALTIES - No person shall:</p> <ul style="list-style-type: none"> <li>• Make any false material statement, representation, certification, or omission of material fact in an application, record, report, plan, or other document filed, submitted, or maintained under the WQA;</li> <li>• Falsify, tamper with, or render inaccurate any monitoring device, method, or record maintained under the WQA; or</li> </ul>

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	<ul style="list-style-type: none"> <li>• Fail to monitor, sample, or report as required by a permit issued pursuant to a state or federal law or regulation.</li> </ul> <p>Any person who knowingly violates or knowingly causes or allows another person to violate the requirements of this condition is guilty of a fourth-degree felony and shall be sentenced in accordance with the provisions of NMSA 1978, § 31-18-15. Any person who is convicted of a second or subsequent violation of the requirements of this condition is guilty of a third-degree felony and shall be sentenced in accordance with the provisions of NMSA 1978, § 31-18-15. Any person who knowingly violates the requirements of this condition or knowingly causes another person to violate the requirements of this condition and thereby causes a substantial adverse environmental impact is guilty of a third-degree felony and shall be sentenced in accordance with the provisions of NMSA 1978, § 31-18-15. Any person who knowingly violates the requirements of this condition and knows at the time of the violation that he is creating a substantial danger of death or serious bodily injury to any other person is guilty of a second degree felony and shall be sentenced in accordance with the provisions of NMSA 1978, § 31-18-15.</p> <p>[20.6.2.1220 NMAC, NMSA 1978, §§ 74-6-10.2.A through 74-6-10.2.F]</p>
35.	<p>COMPLIANCE with OTHER LAWS - Nothing in this Discharge Permit shall be construed in any way as relieving the Permittee of the obligation to comply with any other applicable federal, state, and/or local laws, regulations, zoning requirements, nuisance ordinances, permits, or orders.</p> <p>[NMSA 1978, § 74-6-5.L]</p>
36.	<p>RIGHT to APPEAL - The Permittee may file a petition for review before the WQCC on this Discharge Permit. Such petition shall be in writing to the WQCC within thirty days of the receipt of postal notice of this Discharge Permit and shall include a statement of the issues raised and the relief sought. Unless the Permittee files a timely petition for review, the decision of NMED shall be final and not subject to judicial review.</p> <p>[20.6.2.3112 NMAC, NMSA 1978, § 74-6-5.O]</p>
37.	<p>TRANSFER of DISCHARGE PERMIT - Prior to the transfer of any ownership, control, or possession of this Facility or any portion thereof, the Permittee shall:</p> <ul style="list-style-type: none"> <li>• Notify the proposed transferee in writing of the existence of this Discharge Permit;</li> <li>• Include a copy of this Discharge Permit with the notice; and</li> <li>• Deliver or send by certified mail to NMED a copy of the notification and proof that the proposed transferee has received such notification.</li> </ul>

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	<p>The Permittee shall continue to be responsible for any discharge from the Facility, until both ownership and possession of the Facility have been transferred to the transferee.</p> <p>[20.6.2.3111 NMAC]</p>
38.	<p>PERMIT FEES - The Permittee shall be aware that the payment of permit fees is due at the time of Discharge Permit approval. The Permittee may pay the permit fees in a single payment or they may pay the fee in equal installments on a yearly basis over the term of the Discharge Permit. The Permittee shall remit single payments to NMED no later than 30 days after the Discharge Permit issuance date. The Permittee shall remit initial installment payments to NMED no later than 30 days after the Discharge Permit issuance date; with subsequent installment payments remitted to NMED no later than the anniversary of the Discharge Permit issuance date.</p> <p>Permit fees are associated with <u>issuance</u> of this Discharge Permit. No person shall construe anything in this Discharge Permit as relieving the Permittee of the obligation to pay all permit fees assessed by NMED. A Permittee that ceases discharging or does not commence discharging from the Facility during the term of the Discharge Permit shall pay all permit fees assessed by NMED. NMED shall suspend or terminate an approved Discharge Permit if the Permittee fails to remit an installment payment by its due date.</p> <p>[Subsection F of 20.6.2.3114 NMAC, NMSA 1978, § 74-6-5.K]</p>